

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY *WLB* D.C.  
05 MAY 18 AM 9:51

MARVIN L. RAINER,

Plaintiff,

vs.

BRUCE WESTBROOKS, et al.,

Defendants.

X  
X  
X  
X  
X  
X  
X  
X  
X  
X

No. 04-2296-D/P

ROBERT B. DI TROLIO  
CLERK, U.S. DIST. CT.  
W.D. OF TN, MEMPHIS

ORDER DENYING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT

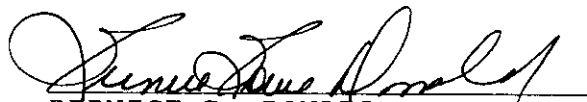
Plaintiff Marvin L. Rainer, Tennessee Department of Correction ("TDOC") prisoner number 332114, an inmate at the West Tennessee State Penitentiary ("WTSP") in Henning, Tennessee, filed a pro se complaint pursuant to 42 U.S.C. § 1983 on April 26, 2004 against former WTSP warden Bruce Westbrooks, Henry Steward, Scott Wilson, Charles Gaskins, Phillip Glenn, Stan Paige, Officer Brown, Vickie Kirby, Captain Lott, Michael Ottinger, Nadine Kiestler, Ross Bates, and Bob Cabay. The Court issued an order on May 19, 2004 that, inter alia, directed the Clerk to issue process for, and the marshal to effect service on, the defendants.<sup>1</sup> On March 30, 2005, plaintiff filed a motion for partial summary judgment. Defendants filed a response in opposition to that motion on April 4, 2005.

<sup>1</sup> To date, defendants Westbrooks, Brown, and Lott have not been served.

As defendants noted, this motion is untimely. The deadline for filing dispositive motions was February 26, 2005. That deadline was extended to March 18, 2005 on motion of the defendants due to the fact that they had not yet received the transcript of the plaintiff's deposition. The plaintiff's motion was not served until March 24, 2005 and it was not received by the clerk until March 30, 2005. The motion is not accompanied by a motion seeking leave to extend the motion deadline or by any explanation for the late filing.

Accordingly, the Court DENIES the plaintiff's motion for partial summary judgment. Nonetheless, the declaration submitted by the plaintiff will be considered, to the extent relevant, in connection with the summary judgment motion filed by defendants Ottinger, Kiestler, Bates, Cabay, Steward, Wilson, Gaskin, Glenn, Paige, and Kirby.

IT IS SO ORDERED this 17th day of May, 2005.

  
BERNICE B. DONALD  
UNITED STATES DISTRICT JUDGE



## Notice of Distribution

This notice confirms a copy of the document docketed as number 50 in case 2:04-CV-02296 was distributed by fax, mail, or direct printing on May 18, 2005 to the parties listed.

---

Marvin L. Rainer  
W.T.S.P.  
332114  
P.O. Box 1150  
Henning, TN 38041--115

Arthur Crownover  
OFFICE OF THE ATTORNEY GENERAL  
P.O. Box 20207  
Nashville, TN 37202--020

Honorable Bernice Donald  
US DISTRICT COURT